



CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

HOUSTON BUSINESS RESOURCE GUIDE

**Houston Business Solutions Center
611 Walker St., Lobby Level
Houston, Texas 77002**

www.houstontx.gov/obo
www.houstontx.gov/hbsc
832-393-0954

The Office of Business Opportunity is committed to creating a competitive and diverse business environment in the City of Houston by promoting the growth and success of local small businesses, with special emphasis on historically underutilized groups by ensuring their meaningful participation in the government procurement process.



Table of Contents

Introduction	P. 2
1.1 Services Offered by the Houston Business Solutions Center	P. 3
2.1 Steps to Starting a Business	P. 4
3.1 Registering Your Business	P. 7
4.1 Tax Filings and Obligations	P. 8
5.1 Permits, Licenses and Requirements	P. 10
6.1 Deed Restrictions and Zoning	P. 12
7.1 Trademarks, Service Marks, Copyrights, & Patents	P. 13
8.1 Businesses and Consumer Protection	P. 15

The Office of Business Opportunity is committed to creating a competitive and diverse business environment in the City of Houston by promoting the growth and success of local small businesses, with special emphasis on historically underutilized groups by ensuring their meaningful participation in the government procurement process.

This material is not intended to provide or take the place of legal or professional financial advice. If you need advice, look for a professional financial manager, consultant, accountant, and/or attorney.

Introduction

NO "GENERAL BUSINESS LICENSE"

There is no general business license issued by the City of Houston.

The enclosed information will help you legally operate a business in Houston and Harris County. Some permits (especially for GENERAL CONTRACTORS) must be obtained on a job-by-job basis.

PRIME AND/OR GENERAL CONTRACTORS ARE NOT PROFESSIONALLY LICENSED IN HOUSTON OR BY THE STATE OF TEXAS. THERE IS NO "GENERAL CONTRACTOR LICENSE".

Businesses requiring minimum distances from schools, residences, day cares, and churches, include but are not limited to: auto sales and storage, sexually oriented businesses, hazardous materials, and the sale of alcoholic beverages. Do not attempt to obtain City-issued permits or buy or lease a location unless you can satisfy distance requirements. For distance requirements, call the City of Houston Planning Department at 713-837-7701.

All City of Houston ordinances are available from the City Secretary at 832-393-1100 or go to: www.houstontx.gov/codes/index.html

NO HOUSTON ZONING ORDINANCE

There is no comprehensive zoning ordinance in the City of Houston.

For information on development regulations in the City of Houston, go to: www.houstontx.gov/planning/DevelopRegs/dev_regs_links.html

The resources included in this Guide are for informational purposes only. It is your responsibility to ensure you have obtained all necessary operating permits and/or licenses and that you comply with all applicable government regulations. The Houston Business Solutions Center assumes no liability for your failure to do so.

Home businesses must check with the respective homeowners association, civic club, county clerk or other resources for applicable deed restrictions. Information included herein is subject to change without notice.

1.1 SERVICES OFFERED BY THE HOUSTON BUSINESS SOLUTIONS CENTER

WORKSHOPS, TRAINING AND OUTREACH

The Houston Business Solutions Center (HBSC) provides assistance with developing a strategy for your business, as well as teaching you skills that will support your small business throughout the life of your business. To facilitate support to small business owners and managers the HBSC offers workshops and outreach aimed at enhancing individuals' business skill set. The HBSC also develops and markets Business Resources Guides, the Getting Started Packet, and organizes seminars and workshops related to the "Liftoff Houston" Business Plan Competition.

REFERRALS FOR LEGAL, PROFESSIONAL SERVICES, AND TECHNICAL ASSISTANCE

HBSC assists business owners and managers in selecting the right legal structure, registering a business, and by providing referrals to free and low cost technical and management assistance. HBSC utilizes a network of legal professionals known as the Houston Lawyers Referral Service, the University of Houston Small Business Development Center (UH SBDC), SCORE, and other agencies.

NAVIGATING GOVERNMENT

De-mystifying complicated government procedures to help businesses comply with applicable rules, regulations and requirements, HBSC acts as a small business liaison to help minimize red tape.

FINANCING

HBSC refers you to agencies that can quickly assess the right lending opportunities for your business, package a loan application, and leverage existing relationships with lenders to increase the chances of your successfully receiving a loan. HBSC also provides information on grant opportunities and access to new forms of financing such as Crowd Sourcing.

MWDBE/SBE/PDBE CERTIFICATION

We help businesses complete the application process to become certified as a Minority, Woman, Disadvantaged, Small, or Persons with Disabilities Business Enterprise with the City of Houston. Once certified, the business will have access to even more assistance related to bidding and procurement opportunities with the City of Houston and other area agencies that accept the City of Houston certifications.

INCENTIVES

HBSC helps you identify and take advantage of applicable government business incentives that could save your business operational expenses.

HIRE HOUSTON FIRST

HBSC is the primary intake and processing point for Hire Houston First applications, and maintains the database of companies who receive bidding preference under the Hire Houston First program.

CONTRACTS AND PROCUREMENT ASSISTANCE

HBSC helps certified businesses navigate their way through the City of Houston's procurement process to increase their chances of winning government contracts. The Office of Business Opportunity (OBO) has a Business Development Manager who is tasked with assisting certified firms in their quest to obtain City of Houston contracts.

2.1 STEPS TO STARTING A BUSINESS

Before you start a business, there are recommended steps you should take that can help improve your chance of success. The following steps will help you decide if starting a business is right for you.

Your Personal Assessment

The first and most important thing you should do is a self-evaluation. Being a business owner can be challenging and stressful. Knowing your strengths and weaknesses helps you focus your initial efforts on the things you do best, while simultaneously finding ways to improve upon or compensate for your weaknesses.

Are you good at multi-tasking?

Normally, when you start your own business you will have to do everything by yourself. This can be a significant change from when you worked for someone else and are only responsible for one area of a business' operations.

What is your tolerance for risk?

If you see risk as an opportunity rather than a threat, then you may have the right profile to start a business. Think about how you handle unforeseen projects – do you adjust well or would you rather have an organized straightforward project? Starting a business will likely involve unplanned setbacks and spontaneous opportunities to which you must react quickly.

Do you need the regularity of a paycheck?

New business owners usually spend more than expected on starting their businesses. They often will not see a regular paycheck for months. You need to consider how stressful this would be for you and whether you have enough savings in reserve to weather these financial ups and downs.

Are you a self-starter and comfortable being alone?

In your business you will be the leader. You are responsible for doing the right thing at the right time. If you prefer to work on a team or lean on others for support and advice, then starting a business may not be for you.

Do you value predictability or diversity?

Business owners will encounter all different types of people through their staff, customers, and vendors. You must be people-oriented and able to manage conflict in order to navigate these relationships successfully.

IMPORTANT EVALUATIVE STEPS

Your Business Proposition

It is important to understand and clearly define your unique proposition for potential customers. You may have a concept that is so different from anything else on the market that it commands immediate attention, but usually businesses are successful by employing the following tactics:

- Provide something attractive or advantageous by taking an existing product and adding an innovative aspect to that product
- Developing an idea that will successfully fill a niche market
- Develop new markets or promotional techniques for existing goods

Writing Your Business Plan

A business plan precisely defines your business idea, identifies your goals, and serves as your company's resume. The basic components include a current and pro forma (future projection) balance sheet, an income statement, and a cash flow analysis. Because it provides specific and organized information about your company (including how you will repay borrowed money), a good business plan is a crucial part of any loan application. A number of local agencies such as the University of Houston Small Business Development Center (UHSBDC) and SCORE provide business planning guidance.

Know All Your Expenses

You should know all of your expenses, both one-time startup expenses and ongoing cash requirements. You should itemize each purchase and expense and research its realistic cost. You should also consider- equipment, insurance, business filings, stationery, signage, furniture, supplies, inventory, accounting and legal services, bank fees, salaries, benefits, etc. For help as you think about expenses, review the Managing Your Cash Workbook.

Secure Necessary Capital

This could be in any form, including bank loans, personal savings, family contributions, etc. Staff at the Houston Business Solutions Center can help you identify the right type of financing and the right lender for you while working with you to package your loan application.

Establishing a Business Bank Account

Establish a business checking account that is separate from any personal accounts you may have. Shop for the bank and services that best suit your needs. Consider large national banks and smaller local banks, as each has different strengths to offer to small businesses. Ask about necessary permits or licenses you may need to demonstrate proof of an operational business.

Setting Up Your Accounting System

You will not know if you are making or losing money, over- or under-stocking inventory, etc. without maintaining records about your sales, inventory, expenses, and cash flow. These records will also allow you to compare your actual results to your projections and they will be necessary to file taxes at the end of each year. Visit www.sba.gov/starting_business/index.html or meet with a Houston Business Solutions Center staff member for assistance.

Assess Your Real Estate Needs

Determine the type of space you need: square feet, property physical condition, layout suitability, traffic flow, parking, use requirements, utility requirements, and cost. Pay particular attention to how the cost/square footage compares with other comparable locations. If leasing, determine which entity is responsible for obtaining permits for leasehold improvements and property modifications - the property owner or manager, or the business owner.

Identify Your Vendors

Identify those companies or individuals from whom you will buy the products and services you need. Consider their reliability carefully. Determine what proof of an operational business vendors need in order to sell products at a wholesale price (as applicable). Remember, in Houston/Harris County there is no such thing as a government-issued "wholesalers' license". *Whether or not you receive a wholesale price from a supplier is solely the end result of a negotiation between the supplier and the business.*

Assess Your Personal Needs

Identify other positions at the company that you will need to fill, as applicable. Establish clear job descriptions and clear required qualifications for these positions. You can contact the Houston Business Solutions Center, the Texas Workforce Commission, or other agencies for hiring assistance.

Utilize Networking Opportunities

Identify classes, workshops, or one-on-one business counseling assistance that will help you better understand how to start and run your business. Take advantage of opportunities to promote your business via free and low cost methods. Print business cards with a logo, email address, and if you have a website, include the website URL and/or QR Code.

Use Social Media to Market Your Business

A multitude of free and low cost social media outlets exist for you to promote your business - including but not limited to Facebook, Twitter, LinkedIn, Google+ and others. Mass email companies such as Constant Contact, MailChimp, and VerticalResponse can help you craft an online marketing effort (some fees may apply).

Consider Franchising

A franchise is a business model that involves one business owner licensing trademarks and methods to an independent entrepreneur. Sometimes, franchises are referred to as chains. There are two primary forms of franchising- *Product/Trade Name Franchising*: Franchisor owns the right to the name or trademark and sells that right to a franchisee. *Business Format Franchising*: Franchisor and franchisee have an ongoing relationship, and the franchisor often provides a full range of services, including site selection, training, product supply, marketing plans and even assistance in obtaining financing - (from www.sba.gov).

3.1 REGISTERING YOUR BUSINESS

This section is designed to provide tips on how to obtain the appropriate permits and licenses for establishing a business in Houston and surrounding areas. For up-to-date information on permits, licenses and regulations, please obtain a copy of the Houston Business Solutions Center *GETTING STARTED PACKET*. Obtain a downloadable version of the *GETTING STARTED PACKET* at: www.houstontx.gov/hbsc/

Forming a Sole Proprietorship or General Partnership

If you plan on conducting for-profit business in Houston/Harris County under any name other than your own, you are required by law to file an Assumed Name, or DBA with the appropriate County Clerk Office. The filing of a DBA or Assumed name is NOT a unique name reservation, but a public declaration that you will be transacting business using an assumed (or fictitious) name. File an Assumed Name or DBA in every county in which you will have an actual physical business presence or sales presence. Many larger Texas counties have multiple County Clerk locations.

CLERK OFFICE	WEBSITE	PHONE
HARRIS Co.	www.cclerk.hctx.net	713-755-6411
FORT BEND Co.	www.co.fort-bend.tx.us/getsitepage.asp?sitePage=3212	281-341-8652
MONTGOMERY Co.	www.co.montgomery.tx.us/dept/departments_c/county_clerk/index.html	936-539-7885
WALLER Co.	www.co.waller.tx.us/ips/cms/countyoffices/countyClerk.html	979-826-7711
GALVESTON Co.	www.co.galveston.tx.us/county_clerk/	409-766-2200
BRAZORIA Co.	www.brazoriacountyclerk.net/recorder/content/	281-756-1355

Where Do I Get the Proper Forms to File?

Contact the appropriate County Clerk's office at the above telephone number or website to download and submit forms. Fees will apply.

How Do I Determine Whether the Name I Want to Use Is Available?

Complete a name search on the appropriate County Clerk's website or at the County Clerk's office to ensure that the chosen name is not already in use. The County Clerk office will conduct a search on their system at the time of the filing to verify whether or not the chosen name is already in use. *Please note that filing an Assumed Name or DBA with the County Clerk is not a unique name reservation. Other businesses can use the same exact DBA if they choose.*

I'm Incorporated- Do I also file with the County Clerk?

Yes, you must file locally as well. Separate forms are available from the County Clerk for companies already registered with the Texas Secretary of State.

4.1 TAX FILINGS AND OBLIGATIONS

This section provides resources for help with tax preparation as well as answers to frequently asked questions about obtaining a Federal Employer or Taxpayer ID Number, how to establish a Texas Sales Tax Account, and how to file a Rendition of Business Personal Property with the local appraisal district.

There are two main types of tax numbers: 1) State Sales Tax Number (Issued by the Texas State Comptroller), and 2) Federal Employer or Taxpayer ID Number (Issued by the U.S. Internal Revenue Service).

Texas Sales Tax Number

A Sales Tax Number, issued by the Texas State Comptroller, is required for all businesses selling taxable products or services in the State of Texas. In most cases you're required to collect the state sales tax from the person to whom you make the sale (the end user of a product or service).

You can register for the following taxes and fees with the Texas State Comptroller: Sales and Use Tax, 911 Surcharge and Fees, Sales Tax Surcharge on Diesel Equipment, Fireworks Tax. Information needed to apply:

- Sole owners need a social security number.
- Partnerships need the social security number or federal employer's identification number for each partner.
- Texas corporations must have their file number from the Texas Secretary of State.
- All corporations need the social security number for each officer or director.
- Every business must have an NAICS Code.

(Note: The **North American Industry Classification System** or **NAICS**- is used by business and governments to classify business establishments according to type of economic activity (process of production) in Canada, Mexico and the United States. NAICS FAQ: www.census.gov/eos/www/naics/faqs/faqs.html)

- To print your signature form, you will need Adobe Acrobat Reader.
- Allow 2-3 weeks to receive your sales tax permit.

For additional information, contact the Texas State Comptroller's office in Austin, or at a local Houston area office:

STATE COMPTROLLER	WEBSITE	PHONE NUMBER
HOUSTON NORTH	www.window.state.tx.us/	713-426-8200
HOUSTON SOUTH	same	713-314-5700
HOUSTON WEST	same	281-371-5500

Federal Employer or Taxpayer ID Number

A Federal Employer Identification Number (FEIN) is required for most businesses, although sole proprietors with zero employees are exempt from the filing requirement. (Sole proprietors can use a Social Security Number in lieu of a FEIN, or they can file for a FEIN). There is no charge to obtain a FEIN.

The Internal Revenue Service has a comprehensive online tax tutorial for small businesses, located on the website below. Please check it out!

www.irsvideos.gov/virtualworkshop/

You will need an FEIN if you answer "Yes" to any of the following questions:

- If you have or plan to have employees or contractors.
- If you operate your business as a corporation or a partnership.
- If you plan to file any of these tax returns: Employment, Excise, or Alcohol, Tobacco and Firearms.
- If you withhold taxes on income, other than wages, paid to a nonresident alien.
- Do you administer a Keogh plan? (Keogh plans are a type of retirement plan for self-employed people and small businesses in the United States).

Where Do I Obtain Forms and Instructions?

To obtain a FEIN, you must complete IRS Form SS-4, Application for Employer Identification Number and file it with IRS. You can file online or at any of the locations listed below - or see the following website:

www.irs.gov/businesses/small/article/0,,id=102767,00.html

IRS LOCATIONS	WEBSITE	PHONE NUMBER
12941 I-45 North	www.irs.gov	281-721-7021
8701 S. Gessner	www.irs.gov	281-721-7021
1919 Smith St.	www.irs.gov	281-721-7021

Rendition of Business Personal Property

www.hcad.org/pdf/forms/RenGuide.pdf

If you own a Texas business, you are required by law to report personal property used in that business to your county appraisal district. There are substantial penalties for failure to report or for falsification and tax evasion. Information herein is for Harris County. For other Texas counties, go to:

www.taad.org/cad_web_links.html

A Rendition is a form that provides information about property that you own. The appraisal district uses the information you provide to appraise your property for taxation purposes.

There are three categories of taxpayers who must render: 1) Owners of tangible personal property that is used for the production of income; 2) Owners of property on which an exemption has been cancelled or denied; and 3) Owners who have been formally notified by the chief appraiser that they must render.

For taxation purposes, your property is classified as either real property (land, buildings, and other items attached to land) or personal property (items that can be owned but are not attached to land). Personal property that you use to produce income, or for business purposes, must be rendered unless the total value of all of the business personal property is less than \$500.

This includes furniture and fixtures, equipment, machinery, computers, inventory held for sale or rental, raw materials, finished goods, and work in process. You are not required to render intangible personal property – items that can be owned but do not have a physical form – such as cash, accounts receivable, goodwill, custom computer software, and other similar items.

Normally, the last day to file your Rendition is April 15. If you mail the rendition, it must be postmarked on or before April 15. For additional information contact: Harris County Appraisal District, www.hcad.org or call 713-957-7800.

5.1 PERMITS, LICENSES AND REQUIREMENTS

With a multitude of city and state rules and regulations it can be difficult to understand which permits or licenses you need to start and run your business. The Houston Business Solutions Center is available to answer some of the more commonly asked questions.

PERMITTING QUESTIONS:

Which permits/licenses do I need?

Which agency or agencies administer these permits?

What information do I need to provide?

Do I need permits from more than one agency, including those issued by City, County, State, and Federal agencies?

Are permit prices fixed or on a sliding scale depending on type, location, and size of business?

If I buy/sell a business can I transfer the existing permit/license to the new owner?



www.houstonpermittingcenter.org

The **Houston Permitting Center**, 1002 Washington Ave., Houston 77002. Provides a centralized location for the issuance of a majority of City of Houston permits and licenses. Utilizing a sustainable, green building and centralized approach to customer service, the City has integrated many of its core permitting functions into a user friendly "one-stop" approach. For information on hours, permits, fee structures and requirements, see the website above or call 832-394-9000.

City Permits Fee Schedule (NEW!)

www.houstontx.gov/finance/fee_schedule.html

The City fee schedule displays various licenses, permits, services, and various other fees established by authority of the City of Houston Code of Ordinances. The fee schedule is designed to provide an all-inclusive view of the City of Houston's licenses and fee amounts and filing requirements.

City, County, State and Federal Requirements *Houston Business Solutions Center's Getting Started Packet*

www.houstontx.gov/hbsc/downloadpacket.html

HBSC's "GETTING STARTED PACKET" is your comprehensive roadmap to operating a business in Houston. Packets are available by mail, in person, or to anyone opening or expanding a business in the Metropolitan Houston area. Via mail, the packets take approximately 10 days to receive, or you can download the PDF version of the packet FREE of CHARGE at the above link. HBSC staff will explain the permits and licenses necessary to operate your specific business legally.

Tips on Applying for Permits

Start Early!

Apply well in advance of the date you wish to start any business activity that may require a license. It can take time to get a license or permit issued, especially if you need a permit that requires inspections or approvals from multiple City departments (e.g., Public Works, Solid Waste, Fire, Planning, ARA) or qualifying professional exams.

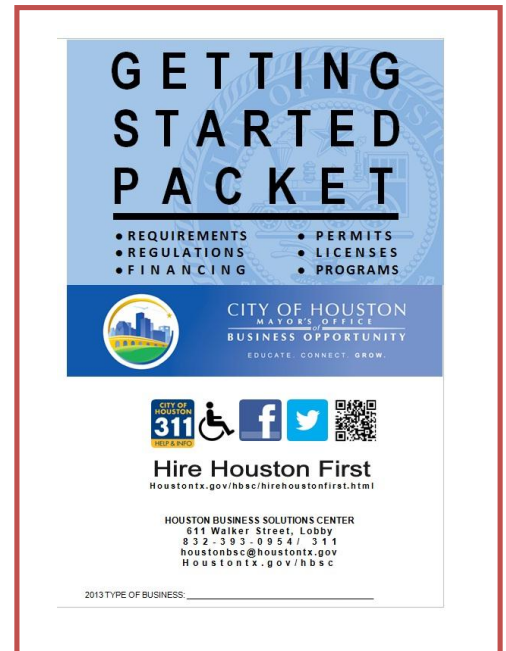
Take Steps in the Right Order

Knowing what is required to obtain the permits you need will save time, money and aggravation. For example, know what documents you will need to submit with the application and prepare them in advance. If the permit you need requires multiple agency approvals or both City and State approvals, you should get them in the order indicated.

Know the Rules

It is your responsibility to become familiar with the laws, rules, regulations and administrative procedures that affect the operation of your business. Not every business activity is "licensed", meaning your business activities could be regulated by a government agency even though you don't actually receive a permit or license to operate.

EXAMPLE: Mail order or catalog-based businesses do not require a specific permit or license to sell mail order. However, mail order-type businesses are regulated by the U.S. Federal Trade Commission via its Mail or Telephone Order Merchandise Rule.



6.1 DEED RESTRICTIONS AND ZONING

Deed restrictions are written agreements that restrict - or limit - the use or activities that may take place on property in a subdivision. These restrictions appear in the real property records of the county in which the property is located. They are private agreements and are binding upon every owner in a subdivision. All future owners become a party to these agreements when they purchase property in deed restricted areas.

A primary purpose of most deed restrictions is preserving the residential character of a subdivision by keeping out commercial and industrial facilities. For people who prefer to live in a strictly residential environment, deed restrictions are desirable. Deed restrictions may legally prohibit a person from operating certain types of businesses (or all businesses) from their home. In Houston, where property is not governed by deed restrictions, a property owner may be free to operate a commercial business in the neighborhood.

Most deed restrictions have an average life span of 25 to 30 years. Some are in effect "in perpetuity." Many deed restrictions contain a provision for automatic renewal after the initial 25 to 30 years span, unless the owners take action to prevent renewal. Other deed restrictions, after the initial term of 25 to 30 years, must be renewed by written approval of a specified percent of property owners.

DEED RESTRICTIONS FREQUENTLY ASKED QUESTIONS

www.houstontx.gov/legal/dr-faq.html

OBTAIN DEED RESTRICTIONS

Residents may obtain a copy of deed restrictions for their subdivision from the County Clerk of the county in which they reside. Each county charges a nominal fee for copies of deed restrictions. Harris County residents should contact:

Harris County Clerk
201 Caroline, 3rd Floor
Houston, Texas 77002

"NO ZONING" LETTERS

The City of Houston produces a yearly update of its "No Zoning Letter" - for documentary evidence to bankers and other agencies requiring proof of Houston (and Harris County) having no formal zoning ordinance.

For a copy of the City of Houston "No Zoning Letter", go to www.houstontx.gov/planning/Forms/devregs/2012_no_zoning_letter.pdf.

The Harris County Zoning/Occupancy Letter can be found at: hcpid.org/permits/docs/zone_letter.pdf

7.1 TRADEMARKS, SERVICE MARKS, COPYRIGHTS, AND PATENTS

This section is designed to help small business owners make informed decisions regarding their trademarks, service marks, copy rights & patents. (Adapted from: www.sos.state.tx.us/corp/tradefags.shtml#tm1)

Trademark & Service Mark (State of Texas)

A trademark is used in connection with tangible goods or products, while a service mark is used in connection with services. The general term “mark” includes both trademarks and service marks.

“Trademark” is defined as a word, name, symbol, device, slogan or any combination thereof which, whether registered or not, has been adopted and used by a person to identify the person’s goods and distinguishes them from goods manufactured or sold by others. A trademark indicates that all goods provided in association with that mark comes from the same source.

“Service mark” is defined as a word, name, symbol, device, slogan or any combination thereof which, whether registered or not, has been adopted and used by a person to identify the person’s services and distinguishes them from the services of others. A service mark indicates that all services provided in association with that mark comes from the same source.

Copyright (Federal Filing)

A copyright, designated by a ©, protects literary, artistic, and musical works including sculptures, movies, computer programs, etc. - Registration is granted by the federal government and is inexpensive. Although it is not necessary to register to use the symbol, registration is important to bring suit for copyright infringement.

To register a copyright, please contact the U.S. Copyright Office at www.copyright.gov

Patents

A patent is an intellectual property right granted by the U.S. Government to an inventor “to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States” for a limited time in exchange for public disclosure of the invention when the patent is granted.

There are three types of patents: Utility Patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof. Design Patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture. Plant Patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

To register a patent or trademark, please contact the U.S. Patent and Trademark Office at www.uspto.gov/faq/index.jsp

Trademarks (Federal)

A *trademark* is a word, phrase, symbol or design, or a combination thereof, that identifies and distinguishes the source of the goods of one party from those of others.

A *service mark* is a word, phrase, symbol or design, or a combination thereof, that identifies and distinguishes the source of a service rather than goods. The term “trademark” is often used to refer to

both trademarks and service marks.

A *certification mark* is any word, phrase, symbol or design, or a combination thereof owned by one party who certifies the goods and services of others when they meet certain standards. The owner of the mark exercises control over the use of the mark. However, because the sole purpose of a certification mark is to indicate that certain standards have been met, use of the mark is by others.

You can establish rights in a mark based on use of the mark in commerce, without a registration. However, owning a federal trademark registration on the Principal Register provides several important benefits.

OWNING A FEDERAL TRADEMARK REGISTRATION ON THE PRINCIPAL REGISTER PROVIDES SEVERAL ADVANTAGES, INCLUDING:

- **Public notice of your claim of ownership of the mark;**
- **A legal presumption of your ownership of the mark and your exclusive right to use the mark nationwide on or in connection with the goods/services listed in the registration;**
- **The ability to bring an action concerning the mark in federal court;**
- **The use of the U.S. registration as a basis to obtain registration in foreign countries;**
- **The ability to record the U.S. registration with the U.S. Customs and Border Protection (CBP) Service to prevent importation of infringing foreign goods;**
- **The right to use the federal registration symbol ® and;**
- **Listing in the United States Patent and Trademark Office's online databases.**

8.1 BUSINESSES AND CONSUMER PROTECTION

The Texas Attorney General's website is: www.oag.state.tx.us/consumer/businesses.shtml

The Office of the Attorney General (OAG) recognizes that most reputable members of the business community intend to operate within the bounds of state and federal consumer protection statutes. Most importantly, businesses need to be aware of their role in the prevention of the fast-growing crime of identity theft. Legislation has been passed in recent years requiring businesses to protect personal data they collect from customers in a number of ways. Businesses can face substantial penalties for disregarding these requirements.

TEXAS DECEPTIVE TRADE PRACTICES ACT (DTPA)

The OAG also protects Texans by filing civil enforcement actions under the Texas Deceptive Trade Practices Act (DTPA) and other consumer protection statutes. Businesses must comply with the law when they interact with customers. Complaints filed with the OAG may form the basis for a state investigation into a company's business practices.

Prohibited Business Practices

The DTPA prohibits certain acts or practices "in the conduct of any trade or commerce." This is a very broad provision. "Trade and commerce" means "the advertising, offering for sale, lease, or distribution of any good or service, or any property, tangible or intangible, real, personal, or mixed, any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State." The term "goods" includes tangible things or real property purchased or leased for use. The word "service" includes work, labor, or services purchased or leased for use, including services furnished in connection with the sale or repair of goods. The DTPA does not apply to the rendering of a professional service, the essence of which is the providing of advice, judgment, opinion or similar professional skill.

DTPA Statute

www.statutes.legis.state.tx.us/SOTWDocs/BC/htm/BC.17.htm

Businesses should also be aware that in times of disaster, raising prices to exploit shortages of certain commodities may qualify as price-gouging. The OAG aggressively pursues businesses that violate price-gouging laws. Many business operators recognize that protecting their customers is not only good business, but also the right thing to do. The OAG welcomes opportunities to work in cooperation with businesses to promote the public good.

**Texas Attorney General
Consumer Protection Division**

713-223-5886
808 Travis, Suite 1520
Houston, Texas 77002-1702